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 5 *Attorney for Defendants Tierra Layne Baer-Warndahl and Wesley Day, M.D.*

6 **IN THE UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 WILLIAMSON PENN LITTLE,

9 Plaintiff,

10 v.

11 TIERRA LAYNE BAER-WARND AHL,  
 an individual; WESLEY DAY, M.D., an  
 12 individual

13 Defendants.

Case No.: 2:20-cv-01964-APG-NJK

**NOTICE OF NON-OPPOSITION TO  
 DEFENDANTS' MOTION TO  
 DISMISS FOR FAILURE TO STATE  
 A CLAIM UNDER RULE 12(b)(6)  
 AND FOR LACK OF PERSONAL  
 JURISDICTION OF DEFENDANT  
 WESLEY DAY, M.D. UNDER RULE  
 12(B)(2).**

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 15 COMES NOW, Defendants Tierra Layne Baer-Warndahl and Wesley Day, M.D.  
 16 by and through their attorney of record Christopher S. Connell, Esq. of CONNELL LAW,  
 17 and hereby submits this Notice of Non-Opposition to Defendants' Motion to Dismiss  
 pursuant to 12(b)(2) and 12(b)(6).

18 At present, Plaintiff Williamson Penn Little ("Little") has offered no opposition to  
 19 the Defendants' Motion to Dismiss as required under the Local Rules of Practice for the  
 20 United States District Court, District of Nevada. Local Rule 7-2(b) states that:

21 "[F]or all other motions<sup>1</sup>, the deadline to file and serve any points and  
 22 authorities in response to the motion is 14 days after service of the motion.."

23 LR 7-2(b). Here, the Motion to Dismiss was filed and served on Plaintiff Little on  
 24 November 16, 2020, which is more than 14 days from the date of this Notice. As

25  
 26 <sup>1</sup> LR 7-2 reads in full as follows: Unless the court orders otherwise, the time for filing a motion for summary  
 27 judgment is governed by Fed. R. Civ. P. 56(b). The deadline to file and serve any points and authorities in  
 28 response to a motion for summary judgment is 21 days after service of the motion. The deadline to file and  
 serve any reply in support of the motion is 14 days after service of the response. For all other motions, the  
 deadline to file and serve any points and authorities in response to the motion is 14 days after service of the  
 motion. The deadline to file and serve any reply in support of the motion is seven days after service of the  
 response. Surreplies are not permitted without leave of court; motions for leave to file a surreply are  
 discouraged.

1 such, the opposition to the Defendants' Motion to Dismiss was due no later than  
2 November 30, 2020.

3 Under the Local Rules and 9th Circuit law, a party's failure to timely oppose  
4 a motion constitutes the non-moving party's consent to granting of the motion. *U.S.*  
5 *v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979); *Righthaven LLC v. Newman*, Case  
6 No. 2:10-cv-01762, 2011 U.S. Dist. LEXIS 80518 (D. Nev. July 22, 2011) (granting  
7 motion to dismiss due to plaintiff's failure, by a matter of mere hours, to timely  
8 respond), *aff'd on mtn. to reconsider*, 2011 U.S. Dist. LEXIS 109327 (D. Nev. Sept.  
9 23, 2011) "this failure to oppose Plaintiff's Motion means [the non-moving party]  
10 may be deemed to consent to the granting ... of the motion." For the above reasons,  
11 the Defendants respectfully request that this Court consider the Motion to Dismiss  
12 to be consented to and for the Court to grant it.

13 DATED this 9<sup>th</sup> day of December, 2020.

14 CONNELL LAW

15  
16 /s/ Christopher S. Connell

17 Christopher S. Connell, Esq.

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23 *Attorney for Defendant Tierra Layne Baer-*  
24 *Warndahl and Wesley Day, M.D.*  
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**CERTIFICATE OF SERVICE**

I hereby certify, that service of the foregoing NOTICE OF NON-OPPOSITION TO DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM UNDER RULE 12(b)(6) AND FOR LACK OF PERSONAL JURISDICTION OF DEFENDANT WESLEY DAY, M.D. UNDER RULE 12(B)(2) was made this 9<sup>th</sup> day of December, 2020 upon the following Plaintiff, Pro Se via the Court's electronic filing and service system:

Williamson Penn Little  
The Bar Nothin' Company LLC  
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Chicago, Illinois 60606  
Email: [p@pennlittle.com](mailto:p@pennlittle.com)  
Plaintiff, Pro Se

/s/ Mary Rodriguez  
An Employee of CONNELL LAW